

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ERIC JAMES WELLINGTON,

Defendant.

CR 10-43-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on September 16, 2015. Defendant admitted he had violated Special Condition 4 of his supervised release by consuming alcohol on August 17, 2015, and on August 24, 2015. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of nine months, with 12 months of supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir.

1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated Special Condition 4 on two separate occasions. Defendant could be incarcerated for up to 24 months, followed by 36 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of six to twelve months. A sentence of nine months in custody, followed by 12 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 43) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 2nd day of October, 2015.



Brian Morris
United States District Court Judge